IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.166 OF 2006

Valji Devji Patel ...Petitioner

Versus

Shri Sanjay Sethi & Ors. ...Respondents

.....

Ms.Nayna V.Thatte for Petitioner.

None for Respondents.

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CORAM: A.M.KHANWILKAR, J.

MAY 3, 2006.

P.C.

1. The grievance made in this Petition is about non-compliance of direction contained in order dated 4th May 2001 passed by the Division Bench of this Court in Writ Petition No.1550 of 1999. In that order, the Court recorded the assurance given by the Counsel for Respondent No.1 that the encroachments on the suit plot will be removed within one year from the date of the order. The grievance of the Petitioner is that the encroachment has still not been removed inspite of

such assurance given to this Court. As per the observations made in the said order, it is obvious that the Respondent No.1 was required to take recourse to eviction proceedings within one year from the date of the order. Even if I were to accept the allegation contained in the Petition that such steps have not been taken within specified time as it is, the question is whether the present contempt action can be said to be within limitation having been filed on 25th April 2006.

2. According to the Counsel for the Petitioner, non-compliance of the direction given by this Court or the assurance given to this Court which was accepted as a continuing wrong and for which reason, the rigours of Section 20 of the Act will have no application. To buttress this submission, reliance is placed on the decision in the case of Firm Ganpat Ram Rajkumar vs. Kalu Ram & Ors. reported in 1989 Supp (2) SCC 418. In that decision, however, the Court went on to observe that failure to give possession may constitute continuing wrong, for which reason, Section 20 will

have no application. However, in the present case, the Respondent was required to comply with the assurance as well as the direction given by this Court within one year from 4th May 2001 which period expired on 3rd May 2002. If the respondent failed to take necessary steps in terms of the order dated 4th May 2001 within such time, it was open to the Petitioner to approach this Court within one year from 4th May 2002, whereas, the present Petition has been filed in April 2006.

3. In my opinion, the principle pressed into service of continuing wrong will have no application to the fact situation of the present case. Thus understood, as the present contempt action is beyond limitation, the same will have to be dismissed. Ordered accordingly.

A.M.KHANWILKAR, J.